

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Michael H. Glenn,	:	
	:	Case No. 1:22-cv-202
Plaintiff,	:	
	:	Judge Susan J. Dlott
v.	:	
	:	Order Adopting Report and
C/O Basham, <i>et al.</i>	:	Recommendation
	:	
Defendants.	:	

This matter is before the Court on the Order and Report and Recommendation (“Order and R&R”) issued by Magistrate Judge Karen L. Litkovitz on September 25, 2023. (Doc. 44.) Therein, the Magistrate Judge ordered that the Plaintiff Michael H. Glenn’s non-dispositive Motion for Appointment of Counsel (Doc. 40) and Motion to Submit Evidence (Doc. 33) were denied. (Doc. 44 at PageID 282.) As to Glenn’s request for a transfer contained within the Motion to Submit Evidence—a request the Magistrate Judge construed as a motion for preliminary injunction—the Magistrate Judge recommended that it be denied. (*Id.*) Finally, the Magistrate Judge provided Glenn with written notice of his right to file objections within fourteen days. (*Id.* at PageID 283.)


Title 28 U.S.C. § 636(b)(1)(A) and Rule 72(a) of the Federal Rules of Civil Procedure authorize magistrate judges to decide nondispositive matters which have been referred to them. A party’s failure to timely object to a written order on a nondispositive matter forfeits any error. Fed. R. Civ. P. 72(a). Likewise, 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1) authorize magistrate judges to make recommendations concerning dispositive motions that have been referred to them. When no objections are filed, “[t]here is no indication that

Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review [the] magistrate's report." *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also Weir v. Centurion*, No. 3:19-CV-00131, 2021 WL 5165930, at \*1 (M.D. Tenn. Nov. 5, 2021) ("The district court is not required to review, under a de novo or any other standard, those aspects of the report and recommendation to which no objection is made."). Nonetheless, some district courts follow the Advisory Committee Notes to Rule 72(b) and review the report and recommendation for clear error. *See e.g., Roane v. Warden of Corr. Reception Ctr.*, No. 2:22-CV-2768, 2022 WL 16535903, at \*1 (S.D. Ohio Oct. 28, 2022); *Lassiter v. Dullaghan*, No. 1:10-CV-010, 2011 WL 110259, at \*1 (S.D. Ohio Jan. 13, 2011). "The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1) (substantively similar).

Plaintiff here did not file objections to the Order and R&R. The Court finds no clear error and agrees with the well-reasoned R&R insofar as the Magistrate Judge recommended denying the request for a transfer, which is construed as a motion for preliminary injunction. Accordingly, the Court **ADOPTS** the recommendation in Order and R&R (Doc. 44) insofar as the request for a transfer contained within the Motion to Submit Evidence (Doc. 33) is **DENIED**.

**IT IS SO ORDERED.**

BY THE COURT:

  
\_\_\_\_\_  
Susan J. Dlott  
United States District Judge